Public Service Management Pension Plan Board

1989 ANNUAL REPORT

Alberta
GOVERNMENT PENSION BOARDS

91-03338/

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GOVERNMENT PENSION BOARDS

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February 1991

The Honourable Dick Johnston
Provincial Treasurer

Sir:

I have the honour to submit to you the annual report of the Public Service Management Pension Plan Board for the period January 1, 1989 to December 31, 1989. The report outlines the roles and responsibilities of the Public Service Management Pension Plan Board under the legislation governing the plan.

Board activities, during the period under review, with respect to its appellate and advisory roles are described in the report.

Yours truly,

J. E. Faries, FCIS, PAdm.
Chairman

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INTRODUCTION

The calendar year 1989 is the fourth year of operation of the Public Service Management Pension Plan Board in its current role. This Board was established effective November 1, 1985 under the Public Service Management Pension Plan Act and currently (March 31, 1990) covers 4,996 active participants and 1,779 pensions in payment. The main responsibilities of the Board are to hear appeals of administrative decisions made on pensions, and to advise the Minister responsible for public service pensions on matters relating to the Plan.

The Honourable Dick Johnston, Provincial Treasurer, is the Minister responsible for public service pensions. The Plan is administered by Alberta Treasury, Payroll and Pensions Division.

The Board is made up of five members, who are appointed by the Lieutenant Governor in Council, representing the employees, employers and the Government.

As in previous annual reports, a discussion of the Board's appellate role is provided and a cross-section of appeals is included for information.

The Public Service Management Pension Plan Board has continued to provide advice to the Minister. The areas of discussion have been wide ranging and in many cases continue to be ongoing. A brief summary of issues and recommendation is included in this report.

CHAIRMAN'S REPORT

During 1989 the Board met 3 times and dealt with 4 appeals. 75% of the appellants attended or were represented at the hearings. It is a good indication that the Board is easily accessible by plan members when dealing with pension problems.

All hearings were held in Edmonton. Where a member was required to travel to Edmonton, the Board provided reimbursement of his expenses in accordance with its established policy on this issue.

All hearings are conducted after a 'Notice of Appeal' is filed by the member. Examples of the cases heard by the Board are reported under SUMMARY OF CASES.

Because of promotions and lateral transfers, there were several changes to the membership of the Board. The Board sincerely wishes Mr. Brian Black and Mr. Clarence Roth every success in their careers. The Board welcomes new members Mr. Don Harford and Mrs. Oryssia Lennie and looks forward to their contributions.

Each year, in conjunction with other government boards, a seminar is conducted to provide a degree of training and information to new and existing Board members. As in other years, resigning and outgoing members were presented with a small token of appreciation. Invitations were extended to several employee, employer and 'sister' organizations. This allows for discussion of different topics that are of interest. Payroll and Pensions and other divisions of Alberta Treasury were invited to provide input and information at the seminar. Topics this year included "Evolving Issues in Public Sector Pensions", "Plan Governance" and several others such as a review of the Board's legal responsibilities and authority. Speakers included a member from the private pension industry, the Board's legal consultant, union representatives and members from Payroll and Pensions and the Investment Divisions of Alberta Treasury. The seminar proved once again to be successful and beneficial to all.

In addition to the important quasi-judicial role, the Board made recommendations to the Minister regarding the actuarial assumptions and methods used in the study of the Plan. Comments were also made in respect of the cost of living adjustments to pensions and the rules for registration being imposed by the Federal Government. These recommendations are described under the heading ADVICE.

THE BOARD

The Board is made up of 5 members, appointed by the Lieutenant Governor in Council, representing employees, employers and the Government. Although the Public Service Management Pension Plan Act stipulates that one member shall be appointed from among the participants, there is no clear indication on the division of employee and employer representation. The Vice-Chairman and Chairman are appointed from among the members and the latter is responsible for the leadership at hearings and meetings of the Board. With the exception of the Chairman, Board members serve on a part-time basis. The Chairman serves as Chairman of the Boards of four other government administered pension plans and Vice Chairman of the Board of Administrators of the Teachers' Retirement Fund. A small staff provides professional and administrative services to all Boards.

Brief biographies of Board members as at December 31, 1989 are provided below:

J. E. Faries

Mr. Jerry Faries was appointed Chairman of the Board in 1985. He brings to the Board considerable background in pension policy and administration. He served over 15 years as Director of the Pension Administration and five years as Chairman of the Administrative Board. Mr. Faries was, for a number of years, chairman of the Advisory Committee and instructor for the Employee Benefit Administration Certificate program offered by the Faculty of Extension at the University of Alberta. Currently, he holds several senior positions on other boards and community organizations. His term of office expires on April 1, 1992.

A. F. (Chip) Collins

Mr. Collins, the government representative, is Vice-Chairman of the Board. He served as Deputy Provincial Treasurer from 1972 until his retirement in 1984. Mr. Collins brings to the Board extensive financial, administrative, and public service experience. His term of office expires on April 1, 1991.

B. M. Black

Mr. Brian Black began his career in the Manitoba Civil Service Commission. In 1979 he joined the Personnel Administration Office (PAO) of the Alberta Government in the personnel and pay and benefits fields. He has also worked as the Personnel Director in the Departments of Agriculture and Public Works, Supplies & Services and was Executive Director of the Personnel Management Improvement Services Division in PAO. He resigned from the Board in October 1989 to take up the position of Assistant Deputy Minister of Public Works, Supplies & Services. His term of office was scheduled to expire on April 1, 1991. He was replaced by Mr. D. B. Harford.

C. J. Roth

Born in Alberta, and a graduate of the University of Alberta, Mr. Clarence Roth has had extensive involvement in government services including Agriculture, Transportation and Economic Development and Trade. While in the private sector, Mr. Roth was involved in developing agricultural services with the Canadian Imperial Bank of Commerce. On rejoining the Alberta Government, Mr. Roth remained the Deputy Minister, Planning and Services of Alberta Economic Development and Trade until November 1989, when he resigned from Government and the Board and moved to British Columbia. His term of office was scheduled to expire on April 1, 1992.

T. Forgrave

Mr. Forgrave was appointed to the Board on January 8, 1987. He received his undergraduate and graduate education at the University of Western Ontario and Toronto. An ordained minister of the United Church of Canada, he has held various positions with the City of Edmonton. He is currently Assistant Deputy Minister, Municipal Administrative Services Division, Alberta Municipal Affairs. His term of office expires on April 1, 1991.

D. B. Harford

A graduate of the University of British Columbia, Mr. Don Harford joined the Alberta Government in 1967, working in human resource development and personnel. For the period 1971 to 1975 he was Assistant to the Alberta Minister of Manpower and Labour as well as Executive Secretary to the Royal Commission on the Grande Cache Coal Mining Industry and Occupational Health and Safety. He was on loan to the Government of Saskatchewan in 1975 and worked for the Public Service Commission and the Department of Finance in Saskatchewan until 1979. On his return to Alberta, he assumed the position of Executive Director, Management Services Division, PAO and subsequently Executive Director, Management Programmes Division, PAO. Mr. Harford was appointed to the Board in November 1989 to complete Mr. Black's term of office expiring on April 1, 1991.

SUMMARY OF APPEALS

Provisions

The Act provides that decisions of the Minister which adversely affects plan members' rights under the Pension Plan, in any of the following areas, can be appealed:

Participation	Contributions
Pensionable Service	Prior Service
Benefits	

The Act also provides for application to the Board for extension of time limits in respect of pension benefits and benefit choices. Under the terms of the various reciprocal transfer agreements, the Board is empowered to extend time limits on breaks in service and on applications at its discretion.

The provisions dealing with applications under section 10 and appeals under section 35 are outlined for easy reference in Appendix A - excerpts from the Act.

Parties aggrieved by a decision of the Board may, under section 36 of the Act, appeal to the Court of Queen's Bench within 30 days on a question of law or jurisdiction.

Procedure

A prescribed Notice of Appeal form is normally provided to the plan member by Payroll and Pensions Division of Alberta Treasury with any adverse administrative decision. This form must be completed and submitted in filing an appeal with the Board. It may also be used for applications for time limit extensions.

Assistance to appellants is available from the Chairman's office. The individual may seek advice on what facts to gather and how they should be presented.

Hearings are conducted in an informal manner, and the Board is guided by the pension legislation and adheres to the principles found in the doctrines of natural justice and fairness. The Board has published a Pension Appeal Process brochure which provides guidelines for members of the Alberta Pension Plans.

The Board has authorized the Chairman to reimburse appellants and applicants appearing before the Board for reasonable travel and out-of-pocket expenses. This ensures that all appellants and applicants have the opportunity to appear and present their cases irrespective of their places of residence.

Summary of Appeals and Applications (1989) - Public Service Management Pension Plan Board

During 1989 the Public Service Management Pension Plan Board met 3 times and decided on 4 appeals/applications. During 1988, the Board met 5 times and decided on 9 appeals/applications.

The Board granted or varied 50% of the appeals/applications in 1989 and 78% of the appeals/applications in 1988.

In 1989, 75% of the appellants/applicants or their representatives attended their hearings before the Board. This compares to 100% in 1988.

Summary of appeals/applications for 1989 with comparative figures for 1988 - PSMPP

	1989			1988		
Category	#	% of Total	% Granted or Varied	#	% of Total	% Granted or Varied
Reciprocal Transfer	0	---	---	3	33%	67%
Time Limit Extensions (Section 10)	0	---	---	---	---	---
Appeals (Section 35)	4	100%	50%	6	67%	83%
TOTAL	4	100%	50%	9	100%	78%

Summary of Appeals and Applications (1989) All Boards

During 1989, 76 appeals/applications were heard by the five Pension Boards. This compares to 58 heard during the calendar year 1988.

A. Summary by type of appeal/application. Also shown is the percentage in each type. Comparative figures for 1988 are included.

	1989		1988	
Type of Hearing	Number	% of Total	Number	% of Total
Appeals (Section 35)*	36	47	36	62
Applications Section 10	16	21	3	5
Applications (Reciprocal Agreements)	24	32	19	33
TOTAL	76	100	58	100

* Section 34 for UAPP

B. Number of Appeals/Applications filed but not heard.

Summary of number of cases granted by Payroll and Pensions and/or withdrawn by appellants prior to being heard by the Board is as follows:

Board	1989	1988	1987
PSPP	2	5	3
LAPP	3	10	10
PSMPP	1	1	1
UAPP	1	2	0
SFPP	1	1	1
TOTAL	8	19	15

C. Attendance at Hearings (by appellant and/or representative):

BOARD	1989	1988	1987
PSPP	79%	65%	75%
LAPP	54%	70%	64%
PSMPP	75%	100%	90%
UAPP	60%	80%	83%
SFPP	100%	100%	100%

D. Number of Appeals and Applications heard by the Boards

	Applications		Appeals	Total
	Reciprocal Transfer	Section 10	Section 35*	
LAPP	13	4	18	35
PSPP	10	7	7	24
PSMPP	0	0	4	4
UAPP	1	5	4	10
SFPP	-	-	3	3
TOTAL	24	16	36	76

* Section 34 for UAPP

E. Percentage of Appeals and Applications Granted or Varied

	Applications		Appeals	Total
	Reciprocal Transfer	Section 10	Section 35*	
LAPP	77%	100%	67%	74%
PSPP	60%	100%	29%	63%
PSMPP	-	-	50%	50%
UAPP	100%	80%	100%	90%
SFPP	-	-	33%	33%
Combined	71%	94%	58%	70%

* Section 34 for UAPP

F. Applications for Reciprocal Transfers (Time Limit Extensions)

	Exporting Plans							
Importing Plans	LAPP	PSPP	PSMPP	UAPP	SFPP	TRF	OTHER	TOTAL
LAPP	xx	8	1	-	-	2	2	13
PSPP	6	xx	-	-	-	3	1	10
PSMPP	-	-	xx	-	-	-	-	-
UAPP	1	-	-	xx	-	-	-	1
SFPP	-	-	-	-	xx	-	-	-
TOTAL	7	8	1	-	-	5	3	24

The four appeals dealt with under Section 35 of the Act are summarized as follows:

Appeal #1

Purchase of Prior Service

The participant, in 1973, requested that two periods of prior service, as a Research Assistant and as a post-doctoral fellow, be recognized for pension purposes. Because of insufficient records, the Pension Administration closed the file in 1977. In 1988 the participant revived the issue. His application was denied because of the part-time and casual nature of the first period and the second period of service was not eligible. The participant appealed to the Board to have the service recognized at the 'old' rates.

The Board varied the Minister's decision. The participant's Research Assistant service was allowed to be recognized at the rate in effect in 1973, but his post-doctoral fellowship period was denied.

In the Board's view, the first period of service was rendered on a full-time continuous basis, thereby meeting the criteria established by the administrative board, and the participant was not advised that his initial application was abandoned. The Board considered the second period of service ineligible because of its nature.

Appeal #2

Error in Costing

The participant applied to purchase 1.2915 years of service in early 1987. He was quoted numerous figures for the service ranging from $300 to $2,900. In May 1987 he paid $2,933.21 for the service. The payment in full of his prior service was acknowledged by the Pension Administration on several occasions during 1987. The participant retired and elected his pension option in April 1988 and commenced receiving his pension cheques in June 1988. In the same month, Pension Administration wrote the participant that the prior service costing should have been $21,150. The participant had by then retired and his retirement could not be undone.

The Minister denied the participant's request to retain the service he had purchased at $2,933.21. The reason advanced was that the participant had been advised of the incorrect costing as early as March 1986. The Minister's solicitor argued that the Board is not a board of equity and, if the participant had been wronged, his redress would be through the Courts.

The Board confirmed the Minister's decision on the bases that (a) the participant was aware of the error in calculating his prior service costing but acted to purchase the service after being alerted to the error, and (b) he had the opportunity to take steps to ensure that the correct amount was established before electing to take early retirement.

Appeal #3

Refund of Contributions on Prior Service

A Public Service Pension Plan participant applied to purchase a period of military service in May 1977 through April 1978. He and his employer were notified that a Military Discharge Certificate was required. While waiting for this Certificate and the Notice of Cost, the participant paid a lump sum of $3,000 in December 1979 to take advantage of the tax shelter.

In May 1980, the individual was promoted and commenced contributions to the Public Service Management Pension Plan (PSMPP). His service was transferred to the PSMPP and a management deficiency was paid. In January 1980 the participant was issued a Notice of Cost on the military service at $18,772.55. The participant found the cost exorbitant and requested a refund of the $3,000 paid earlier. The matter was considered by the then administrative board which denied the request and ordered the service to be prorated. Consequently, .2856 year of service was credited as pensionable service under the PSMPP.

The participant retired in April 1987. He was advised along with the option package that the management deficiency was required. He indicated that he was under the impression that the deficiency would be paid from the $3,000 and again requested a refund of the balance of his payment. The Minister rejected the participant's request on the basis that he (the Minister) did not have authority to overrule a decision made in 1980 by the previous board.

The Public Service Management Pension Plan Board found that the matter was not properly before it since the participant did not have a formal decision from the Minister. (This case was eventually returned to the July 1990 agenda.)

Appeal #4

Components of Salary for Pension Purpose

In October 1988, a group of pilots requested that flight modifier pay be considered pensionable salary. A survey was commissioned to help to determine an equitable salary and benefit level for the pilots. The survey found a stronger match with the private sector than with the public sector group. The modifier did not relate to overtime hours or standby time; it was simply a means to work within the management pay plan. During the negotiation of the modifier between the employees, department and Personnel Administration Office, it was the understanding of the employee group that the flight modifier would be pensionable income. However, it did not have anything in writing to that effect.

The Minister's argument against including the modifier for purposes of the Plan was that the committee which formulated the modifier had no authority to determine what was pensionable income. Secondly, the idea of considering an 'overtime' supplement pensionable is unacceptable under the Act. The modifier was rejected by the Minister on the basis that it did not form part of the gross basic pay.

The Board upheld the appeal based on the following reasons:

- The nature of the flight modifier represents an overrange payment and an amount to compensate for market demands.

- The flight modifier is also applicable to the co-pilots and forms part of their pensionable salary.

ADVICE

The Board has provided advice in respect of a number of issues affecting the Plan. These are outlined below together with the Board's recommendations.

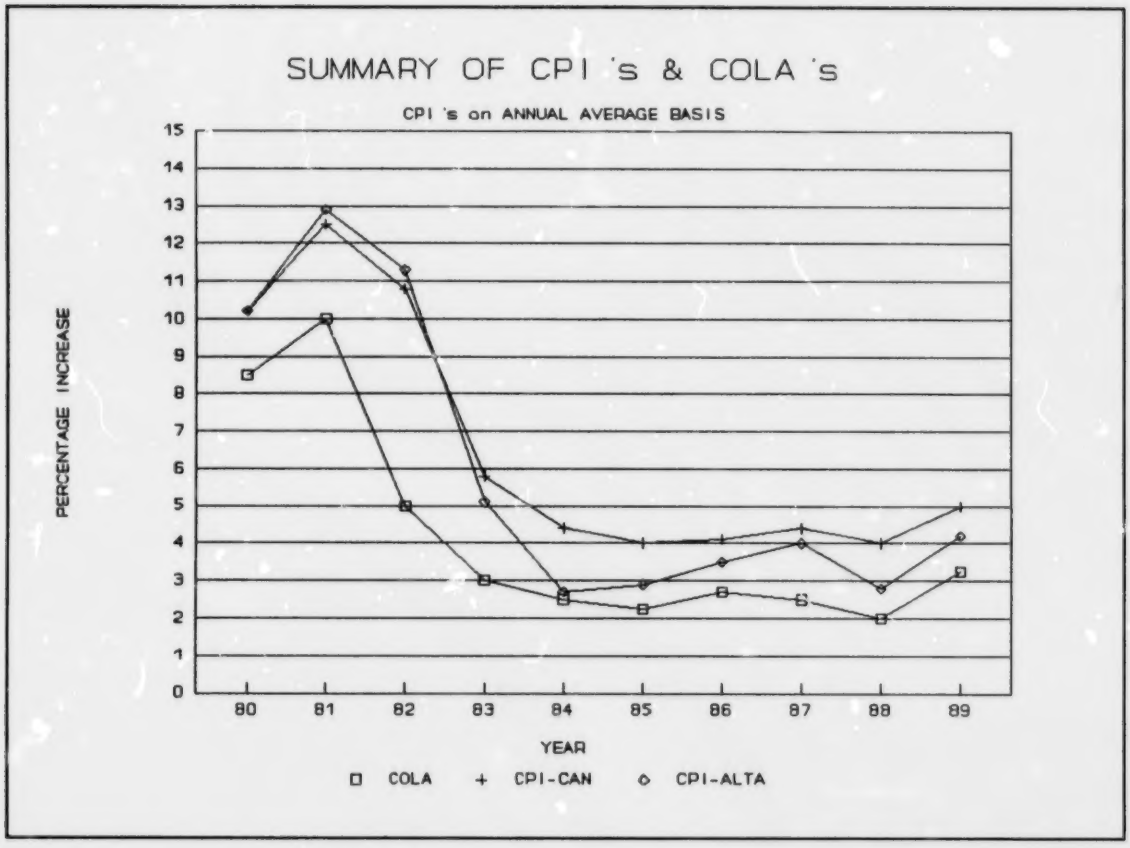
Actuarial Assumptions and Current Service Cost

Pursuant to the results of the 1988 actuarial valuation of the Public Service Management Pension Plan, and based on independent actuarial advice, the Board continued to express concern about the conservative nature of the actuarial assumptions and method used. On behalf of this and other Boards, the Chairman wrote the Minister in May 1989, requesting an independent actuarial valuation based on alternate assumptions and methods. The Minister declined the Board's request in July 1989.

The Board in August 1989 commissioned an independent actuary to prepare a report on the Plan based on alternate assumptions and methods. After reviewing this report in September 1989 and in order to generate further discussion with the Minister, the Board forwarded the same to the Minister.

Cost of Living Adjustments to Pensions

Currently, cost of living adjustment (COLA) to pensions and deferred pensions are granted on an ad hoc basis by the Government. In November 1989 the Board recommended that COLA of 3.9% be granted effective January 1, 1990. The adjustment granted by the Lieutenant Governor in Council was 3.25%.



The graph above shows the COLA's granted on January 1 following the years 1980 through 1989, i.e. the COLA of 3.25% shown for 1989 was granted on January 1, 1990. The Consumer Price Index (CPI) increases are for the calendar years, i.e. CPI-CAN shown for 1980 is the 10.2% increase which occurred in 1980. During the 10-year period the average annual increases were as follows: Canada CPI - 6.5%, Alberta CPI - 5.9%, COLA's granted - 4.1%.

APPENDIX A

Excerpts from the Act

The following excerpts of the Public Service Management Pension Plan Act define the make-up and responsibilities of the Public Service Management Pension Plan Board.

Establishment, composition, term of office, etc.

5(1) There is hereby established a board known as the Public Service Management Pension Plan Board.

(2) The Board shall consist of not fewer than 5 persons appointed members of the Board by the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council shall appoint 1 of the members of the Board from among participants.

(4) A member of the Board holds office for the term fixed in relation to him by the Lieutenant Governor in Council.

(5) The Minister may prescribe the remuneration and expenses to be paid to members of the Board.

(6) The Board may make rules respecting the calling of and conduct of business at its meetings.

Chairman and vice-chairman

6(1) The Lieutenant Governor in Council shall designate one of the members of the Board to be the chairman and another member to be the vice-chairman of the Board.

(2) The vice-chairman shall act as chairman when the office of chairman is vacant or when the chairman is absent or unable to act.

Support services

7 The Minister shall provide such supplies, services and accommodation as he considers necessary to enable the Board to fulfil its objects.

Objects of the Board

8 The objects of the Board are

(a) to conduct the hearing of appeals under Part 6;

(b) to provide advice to the Minister under section 9;

(c) *where appropriate, to extend time limits and treat benefit choices as revoked under section 10;*

(d) *to exercise and perform any other powers and duties assigned to it by this Act and the regulations;*

(e) *to perform any other duties relating to the Plan that are assigned to it by the Minister.*

Advisory functions of the Board

9 *The Board may advise the Minister respecting any matters relating to the Plan, including*

(a) *the adequacy of contributions to meet benefits,*

(b) *adjustments to pensions under section 27,*

(c) *rates of interest for the purposes of the Plan,*

(d) *benefits,*

(e) *reciprocal agreements,*

(f) *recognition of prior service,*

(g) *eligibility and participation in the Plan, and*

(h) *the actuarial tables prescribed or to be prescribed by the Minister.*

Board's power to extend time limits, etc.

10(1) *Where*

(a) *a person fails to meet a time limit under the Plan,*

(b) *the failure will or could result in a person's obtaining different benefits than those he would have obtained had the time limit been met, and*

(c) *the Board is satisfied that the failure results from circumstances that import no material fault on the part of that person,*

the Board may, on application to it, extend the time limit.

(2) Where

(a) the circumstances set out in subsection (1)(a), (b) and (c) apply,

(b) the benefit has been received or has commenced to be paid, and

(c) the Board is satisfied that a choice, including a deemed choice, that would otherwise be irrevocable under section 40(2) could materially prejudice the best interests of the recipient or his dependants,

the Board may, on application to it, treat that choice as revoked, extend the time limit for making the choice and order any consequential adjustments in the benefits.

(3) Where

(a) a benefit choice has been made, and

(b) the Board is satisfied that

(i) the choice communicated to the Minister was not that which the person making the choice actually intended, and

(ii) the application mentioned in this section does not result from a change in a person's circumstances affecting the choice,

the Board may, on application made to it within 3 months from the date when the benefit was received or commenced to be paid, treat the choice as revoked, substitute for it the choice that, in the Board's opinion, the person originally intended to make and order any consequential adjustments in the benefits.

Appeal to the Board

35(1) A party aggrieved by a decision of the Minister under or in relation to Parts 2 to 5 or the prescribed provisions of the regulations, other than a decision under section 32 or one that could be the subject-matter of an application under section 10, may appeal against that decision to the Board.

(2) *A party wishing to appeal to the Board under this section must serve the chairman of the Board with a notice of appeal in the form prescribed by the Minister within 30 days of being notified in writing of the decision appealed against or within such longer period as the Board may, on application, allow.*

(3) *The notice of appeal must specify the decision appealed against and the grounds of appeal.*

(4) *The Board may identify persons who may be interested in the appeal and may give directions as to the persons to be served with the notice of appeal, whether or not they are parties.*

(5) *For the purposes of conducting an appeal under this section, the Board*

(a) *has all of the duties, powers, privileges and immunities given to a commission appointed under the Public Inquiries Act by sections 3, 4, 7 and 9 of that Act, and*

(b) *shall be deemed to be a person for the purposes of section 1(a) of the Administrative Procedures Act.*

(6) *The Board may confirm, vacate or vary the decision appealed against.*

(7) *The Board shall serve the appellant and persons who received a notice of appeal with a copy of its decision, including the reasons for the decision.*

Appeal to the Court of Queen's Bench

36(1) *A party aggrieved by a decision of the Board under section 35 may, within 30 days of the date of service of the Board's decision on him or such longer period as the Court may allow, appeal to the Court of Queen's Bench on a question of law or jurisdiction.*

(2) *The procedure in an appeal to the Court of Queen's Bench shall be the same as that provided in the Alberta Rules of Court for applications by originating notice.*

(3) *The Court of Queen's Bench, on hearing the appeal, may confirm, vacate or vary the decision of the Board or make any order it considers just.*

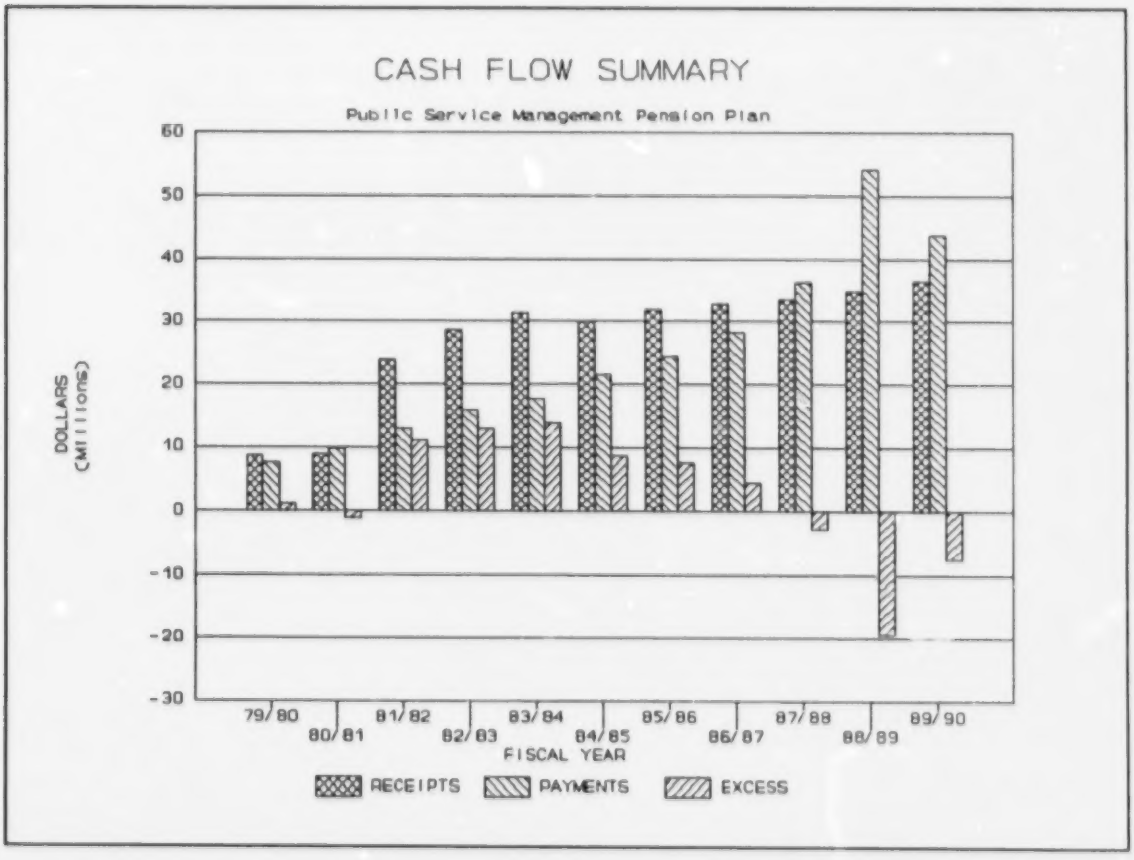
APPENDIX B

Summary of Statistics

Payroll and Pensions provide monthly reports to the Board. Based on this information, the Chairman's office has compiled the following summary:

Cash Flow

The graph below shows the cash flow for fiscal years 1979/80 through 1989/90. The Board observed that a cash deficiency has been experienced for three consecutive years. Included in the payments for fiscal year 1988/89 of $54,247,000 was a transfer of funds of approximately $13.5 million to the Judges' Pension Plan. This payment is also reflected in the shortfall for fiscal year 1988/89 of ($19,458,000).



Membership

The following graphics show that the number of members increased during the fiscal year by 0.1%. This included members of management in Government and its Boards, Agencies and Commissions. Active membership in the plan increased from 3,693 as at March 31, 1980 to 4,996 as at March 31, 1990.

Pensions

Pensions levelled off after the early retirement incentive program. The year began with 1,705 pensions in payment. During the fiscal year 1989/90, 104 were added and 30 were removed resulting in 1,779 on pension at fiscal year end. Comparatively, there were 496 pensions in payment on March 31, 1980.

The average pension in payment was $1,263 per month on March 31, 1980 and has increased to $2,023 per month for pensioners and $1,253 per month for surviving spouses on March 31, 1990.